



World Intellectual Property Organisation (WIPO)
International Bureau
34, chemin des Colombettes
1211 Geneva 20
Switzerland

The Patent Office
Trade Marks Registry
Cardiff Road
Newport
South Wales
NP10 8QQ

Switchboard: 01633 814000
Direct Line: 01633 811031
Fax: 01633 811175
Minicom: 0645 222250
Website: www.patent.gov.uk

Telephone: (44) 1633 811008
Fax No. (44) 1633 811437
Our ref Opp 71268/Trade Marks Law/AB
Date 13 December 2005

Please quote our complete reference on all correspondence

The Case Work Examiner for these proceedings is: Annmarie Povall 01633 811036

Dear Sirs

**NOTIFICATION OF A TOTAL REFUSAL OF PROTECTION BASED ON AN
OPPOSITION BY THE UNITED KINGDOM PATENT OFFICE IN ACCORDANCE
WITH ARTICLE 5 OF THE MADRID PROTOCOL**

RE: International Registration number :823677
For the mark :SHAKE
Holder of the International Registration :Tovarystvo 2 Obmezhenoju
Vidpovidalnistyu
Opposition number :71268

I must advise you that following receipt of an opposition to the above Trade Mark, it is necessary to issue this formal provisional refusal letter. This provisional refusal covers all of the goods and services of the International Registration.

Please find attached a copy of the Form TM7 (Notice of Opposition) that was received by the United Kingdom Trade Mark Registry.

We also attach:

Copies of the marks referred to in the statement of case.
Form TM8, for any reply to this opposition to be filed.
Form TM33 for an agent/ address for service in the United Kingdom to be appointed.
A copy of an extract from the United Kingdom Trade Marks Act 1994.



If the holder of the International Registration wish to file a counterstatement, they should complete the attached form TM8 and return it together with the counterstatement within **3 months** of the date of this letter. This period cannot be extended, except in the circumstances described below. The holder should note that failure to file a form TM8 and counterstatement will result in the provisional refusal being upheld in accordance with article 10 of the Trade Marks International Registration Order 1996(as amended).

If both parties to this dispute wish to negotiate and want to enter a 'cooling off period' then the time for filing the Form TM8 can be extended for a further nine months by the filing of A Form TM9c.

The Form TM8 and counterstatement should be received on or before **13 March 2006** unless a cooling off period is entered into by the parties.

The holder of the International Registration must provide us with an address for correspondence in the United Kingdom on the attached TM33 within this 3 month period. If one is not provided within this time the refusal will be made final.

Yours faithfully

Angela Buttifant

LAW SECTION ASSISTANT CASEWORK EXAMINER

02/12 2005 16.02 FAX 01132430446

UDL LEEDS:

+ UK PATENT OFFICE 002/009

Form TM7

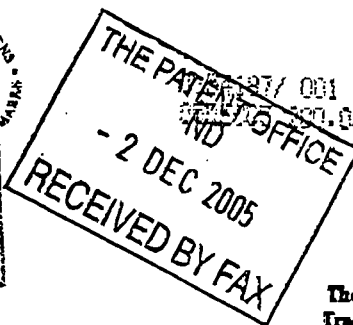
71268

Official fee £200 due with this form

LAW SECTION

05 DEC 2005

RECEIVED



Notice of opposition and statement of grounds

The Patent Office
Trade Marks Registry
Cardiff Road, Newport
South Wales NP10 8QQ

Please read the guidance notes below about filling in this form

1. Trade Mark number.	M823877 (Lowest) Class 33
2. Full name of the applicant or registered proprietor.	Tovarystvo obmashenoyu vidpovidalnistyu "CHAROSVIT"
3. Full name and address (including postcode) of the opponent.	Halewood International Brands Limited, The Sovereign Distillery, Wilson Road, Huyton Business Park, Liverpool, L38 6AD (and) Halewood International Limited, The Sovereign Distillery, Wilson Road Huyton Business Park, Liverpool L38 6AD (JOINTLY)
4. Name and address (including postcode) of the agent (if any).	Urquhart-Dykes & Lord LLP Tower North Central Merrion Way Leeds LS2 8PA
5. Are there any related proceedings currently with the Registry or the courts? If so, give application, registration or opposition number.	No
6. Under what sections of the Trade Marks Act are you opposing this application?	s5(2)(b), 5(4)(a)
7. Declaration Your signature Your name in BLOCK CAPITALS Date	I believe that the facts stated in this notice and in the attached statement of grounds are true. <i>Urquhart-Dykes & Lord</i> Urquhart-Dykes & Lord LLP 2nd December 2005
8. Name and daytime phone number of the person we should contact in case of query.	Johnathan McDonough (0113) 245 2388
Your reference.	JM/G210415
Number of sheets attached to this form.	This is sheet 1 of

Notes You must attach a separate sheet for each earlier mark you rely on.

If there is not enough space for your answers to any section, you may use extra blank sheets.

Number every extra sheet and say in question 8 above how many sheets you have used.

(REV/July04)

Form TM7

0171109 02-Dec-05 04:03

02/12 2005 10 02 FAX 01132430446

JILL LEEDS

- UK PATENT OFFICE 0003/009

Form TM7

Sheet 5 of 6

Use this sheet if you are basing your opposition on section 5(4) of the Trade Marks Act.
Tick which section you are relying on and give details of the earlier mark.
You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

Statement of grounds for opposition based on section 5(4) of the Trade Marks Act 1994.

- ☒ 5(4)(a) by virtue of any rule of law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade.
- ☐ 5(4)(b) by virtue of an earlier right other than those referred to in other subsections of section 5, in particular by virtue of the law of copyright, design right or registered designs; and state what type of right is involved:

Representation of the earlier mark, sign or right.

SHAKERS

How and where has the earlier right been used, and on what goods or services?

The earlier right has been used on alcoholic beverages

When was the earlier right first used on goods or services you have listed?

Since at least as early as 2002

State which goods or services in the application you object to.

Vodka, bitters, spirits; vodka-based beverages and vodka mixers

Form TM7

0171109 02-Dec-05 04:03

Form TM7

Sheet 3 of 6

Use this sheet if you are basing your opposition on section 5(1) or 5(2) of the Trade Marks Act.
Tick which section you are relying on and give details of the earlier mark.
You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

Statement of grounds for opposition based on section 5(1) or (2) of the Trade Marks Act 1994.

- ☐ 5(1) identical with an earlier mark and for identical goods or services as the earlier mark.
- ☐ 5(2)(a) identical with an earlier mark and for similar goods or services as the earlier mark.
- ☒ 5(2)(b) similar to an earlier mark and for identical or similar goods or services as the earlier mark.

Details of earlier trade mark

Number: 2228561

Is it a UK, Community or International mark? UK

Representation of the mark

SHAKERS SMOOTHIE

What goods or services (including their class) are covered by this mark?

Class 33: Alcoholic Beverages

State which goods or services in the application you say are identical or similar to those covered by the earlier mark.

Vodka, bitters, spirits; vodka-based beverages and vodka mixers

Statement of use

If the earlier mark has been registered for five years or more before the publication of the mark you are opposing, state which goods or services the earlier mark has been used on in that time, or state why the mark has not been used in that time.

Form TM7

0171109 02-Dec-05 04:03

02/12 2005 16 03 FAX 01132430446

UOL LEEDS

UK PATENT OFFICE 006/009

Form TM7

Sheet 3 of 6

Use this sheet if you are basing your opposition on section 5(1) or 5(2) of the Trade Marks Act.
Tick which section you are relying on and give details of the earlier mark.
You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

Statement of grounds for opposition based on section 5(1) or (2) of the Trade Marks Act 1994.

- ☐ 5(1) identical with an earlier mark and for identical goods or services as the earlier mark.
- ☐ 5(2)(a) identical with an earlier mark and for similar goods or services as the earlier mark.
- ☒ 5(2)(b) similar to an earlier mark and for identical or similar goods or services as the earlier mark.

Details of earlier trade mark:

Number: 2233007

Is it a UK, Community or International mark? UK

Representation of the mark:

SHAKERS SMOOVIES

What goods or services (including their class) are covered by this mark?

Class 33: Alcoholic Beverages

State which goods or services in the application you say are identical or similar to those covered by the earlier mark.

Vodka, bitters, spirits; vodka-based beverages and vodka mixers

Statement of use

If the earlier mark has been registered for five years or more before the publication of the mark you are opposing, state which goods or services the earlier mark has been used on in that time, or state why the mark has not been used in that time:

Form TM7

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Form TM7

Sheet 3 of 8

Use this sheet if you are basing your opposition on section 5(1) or 5(2) of the Trade Marks Act.
Tick which section you are relying on and give details of the earlier mark.
You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

Statement of grounds for opposition based on section 5(1) or (2) of the Trade Marks Act 1994.

- ☐ 5(1) identical with an earlier mark and for identical goods or services as the earlier mark.
- ☐ 5(2)(a) identical with an earlier mark and for similar goods or services as the earlier mark.
- ☒ 5(2)(b) similar to an earlier mark and for identical or similar goods or services as the earlier mark.

Details of earlier trade mark:

Number: 1162268

Is it a UK, Community or International mark? UK

Representation of the mark:

SHAKERS

What goods or services (including their class) are covered by this mark?

Class 33: Cocktails

State which goods or services in the application you say are identical or similar to those covered by the earlier mark.

Vodka, bitters, spirits; vodka-based beverages and vodka mixers

Statement of use

If the earlier mark has been registered for five years or more before the publication of the mark you are opposing, state which goods or services the earlier mark has been used on in that time, or state why the mark has not been used in that time:

Class 33: Cocktails

Form TM7

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Form TM7

Sheet 3 of 8

Use this sheet if you are basing your opposition on section 5(1) or 5(2) of the Trade Marks Act.
Tick which section you are relying on and give details of the earlier mark.
You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

Statement of grounds for opposition based on section 5(1) or (2) of the Trade Marks Act 1994.

- ☐ 5(1) identical with an earlier mark and for identical goods or services as the earlier mark.
- ☐ 5(2)(a) identical with an earlier mark and for similar goods or services as the earlier mark.
- ☒ 5(2)(b) similar to an earlier mark and for identical or similar goods or services as the earlier mark.

Details of earlier trade mark

Number: 1148367

Is it a UK, Community or International mark? UK

Representation of the mark:

SHAKER'S

What goods or services (including their class) are covered by this mark?

Class 33: Wines, spirits (beverages), liqueurs and cocktails.

State which goods or services in the application you say are identical or similar to those covered by the earlier mark.

Vodka, bitters, spirits; vodka-based beverages and vodka mixers

Statement of use

If the earlier mark has been registered for five years or more before the publication of the mark you are opposing, state which goods or services the earlier mark has been used on in that time, or state why the mark has not been used in that time;

Class 33: Wines, spirits; vodka-based beverages and vodka mixers

Form TM7

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02/12 2005 16.04 FAX 01132430446

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* UK PATENT OFFICE @ 009/009

Form TM7

Sheet 3 of 6

Use this sheet if you are basing your opposition on section 5(1) or 5(2) of the Trade Marks Act.
Tick which section you are relying on and give details of the earlier mark.
You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

Statement of grounds for opposition based on section 5(1) or (2) of the Trade Marks Act 1994.

- ☐ 5(1) identical with an earlier mark and for identical goods or services as the earlier mark.
- ☐ 5(2)(a) identical with an earlier mark and for similar goods or services as the earlier mark.
- ☒ 5(2)(b) similar to an earlier mark and for identical or similar goods or services as the earlier mark.

Details of earlier trade mark

Number: 508437

Is it a UK, Community or International mark? UK

Representation of the mark:

SHAKER

What goods or services (including their class) are covered by this mark?

Class 33: Cocktails

State which goods or services in the application you say are identical or similar to those covered by the earlier mark.

Vodka, blitters, spirits; vodka-based beverages and vodka mixers

Statement of use

If the earlier mark has been registered for five years or more before the publication of the mark you are opposing, state which goods or services the earlier mark has been used on in that time, or state why the mark has not been used in that time:

Class 33: Cocktails

Form TM7

0171109 02-Dec-05 04:03..



OPTICS - TRADE MARKS - USER: APOV 07.12.2005 08.27.28

CASE DETAILS FOR TRADE MARK No. 2194951

Page 1

Customer Ref: SJB/T10695

----- CURRENT DETAILS HELD FOR THIS TRADE MARK -----

Status: RGSTRD

Mark Type: Word Only
Classes: 32 33

Mark Text:

SHAKERS

SHAKER

Date Filed:	16.04.1999	Next Renewal Date:	16.04.2009
Date Progress Stopped:		Registration Date:	23.11.2001
(Earliest) Priority Date:		Expiry Date:	
Priority Country Code:		Archived Date:	
If Series, No. in Series:	002	Licensee:	No

Journal Section:	Journal No:	Publication Date:
First Advert	6391 page 14061	08.08.2001
Registration	6411	02.01.2002
Renewal		
Expiry		
Assignment	6510	12.12.2003
Division		
Merger		
Removal		
Restoration		

Specification of goods / services:

Class 32
Beers.Class 33
Cocktails in class 33.

Residence Country Code: GB

Effective Date of Assignment : 16.10.2003

Proprietor: Halewood International Brands Limited

ADP Number
0814060001Address: The Sovereign Distillery
Wilson Road
Muyton Business Park
Liverpool
L36 6AD



OPTICS - TRADE MARKS - USER: APOV 07.12.2005

08.27.28

CASE DETAILS FOR TRADE MARK No. 2194951

Page 2

Agent: Urquhart-Dykes & Lord LLP

ADP Number
0001644004Address: Tower North Central
Merrion Way
Leeds
West Yorkshire
LS2 8PA

Service: Urquhart-Dykes & Lord LLP

ADP Number
0001644004Address: Tower North Central
Merrion Way
Leeds
West Yorkshire
LS2 8PA

Special Circumstances:

Proceeding because of prior rights in Registration No. 508437(2718,698).



OPTICS - TRADE MARKS - USER: APOV 07.12.2005 08.27.36

CASE DETAILS FOR TRADE MARK No. 2228561

Page 1

Customer Ref: T54581/PRW

----- CURRENT DETAILS HELD FOR THIS TRADE MARK -----

Status: RGSTRD

Mark Type: Word Only
Class : 33Mark Text:
SHAKERS SMOOTHIE

Date Filed:	07.04.2000	Next Renewal Date:	07.04.2010
Date Progress Stopped:		Registration Date:	10.08.2001
(Earliest) Priority Date:		Expiry Date:	
Priority Country Code:		Archived Date:	
If Series, No. in Series:	001	Licensee:	No

Journal Section:	Journal No:	Publication Date:
First Advert	6376 page 07496	25.04.2001
Registration	6396	12.09.2001
Renewal		
Expiry		
Assignment	6510	12.12.2003
Division		
Merger		
Removal		
Restoration		

Specification of goods / services:

Class 33
Alcoholic beverages.

Residence Country Code: GB

Effective Date of Assignment : 16.10.2003

Proprietor: Halewood International Brands Limited

ADP Number
0814060001Address: The Sovereign Distillery
Wilson Road
Huyton Business Park
Liverpool
L36 6AD



OFFICES - TRADE MARKS - USER: APOV 07.12.2005 08.27.36

CASE DETAILS FOR TRADE MARK No. 2228561

Page 2

Agent: Urquhart-Dykes & Lord LLP

ADP Number
0001644004Address: Tower North Central
Merrion Way
Leeds
West Yorkshire
LS2 8PA

Service: Urquhart-Dykes & Lord LLP

ADP Number
0001644004Address: Tower North Central
Merrion Way
Leeds
West Yorkshire
LS2 8PA



OPTICS - TRADE MARKS - USER: APOV 07.12.2005 08.27.42

CASE DETAILS FOR TRADE MARK No. 2233007

Page 1

Customer Ref: PRW/T054592

----- CURRENT DETAILS HELD FOR THIS TRADE MARK -----

Status: RGSTRD

Mark Type: Word Only
Class : 33Mark Text:
SHAKERS SMOOVIES

Date Filed:	18.05.2000	Next Renewal Date:	18.05.2010
Date Progress Stopped:		Registration Date:	03.11.2000
(Earliest) Priority Date:		Expiry Date:	
Priority Country Code:		Archived Date:	
If Series, No. in Series:	001	Licensee:	No

Journal Section:	Journal No:	Publication Date:
First Advert	6337 page 11308	19.07.2000
Registration	6357	06.12.2000
Renewal		
Expiry		
Assignment		
Division		
Merger		
Removal		
Restoration		

Specification of goods / services:

Class 33
Alcoholic beverages

Residence Country Code: GB

Effective Date of Assignment :

Proprietor: Halewood International Limited

ADP Number
0580327001Address: The Sovereign Distillery
Wilson Road
Huyton Business Park
Liverpool
L36 6AD



OFFICES - TRADE MARKS - USER: APOV 07.12.2005

08.27.42

CASE DETAILS FOR TRADE MARK No. 2233007

Page 2

Agent: Urquhart-Dykes & Lord LLP

ADP Number
0001644004

Address: Tower North Central
Merrion Way
Leeds
West Yorkshire
LS2 8PA



OPTICS - TRADE MARKS - USER: APOV 07.12.2005 08.27.59

CASE DETAILS FOR TRADE MARK No. 1162266

Page 1

Customer Ref:

----- CURRENT DETAILS HELD FOR THIS TRADE MARK -----

Status: RGSTRD

Mark Type: Word and Device
Class : 33

Mark Text:
SHAKERS

Date Filed:	02.10.1981	Next Renewal Date:	02.10.2012
Date Progress Stopped:		Registration Date:	
(Earliest) Priority Date:		Expiry Date:	
Priority Country Code:		Archived Date:	
If Series, No. in Series:	001	Licensee:	No

Journal Section:	Journal No:	Publication Date:
First Advert	5537 page 02815	24.10.1984
Registration		
Renewal	6450	02.10.2002
Expiry		
Assignment	6291	25.08.1999
Division		
Merger		
Removal		
Restoration		

Specification of goods / services:

Class 33
Cocktails

Residence Country Code: GB

Effective Date of Assignment : 15.06.1999

Proprietor: Halewood International Limited

ADP Number
0580327001

Address: The Sovereign Distillery
Wilson Road
Huyton Business Park
Liverpool
L36 6AD



OFFICES - TRADE MARKS - USER: APOV 07.12.2005 08.27.59

CASE DETAILS FOR TRADE MARK No. 1162266

Page 2

Agent: Urquhart-Dykes & Lord LLP

ADP Number
0001644004Address: Tower North Central
Merrion Way
Leeds
West Yorkshire
LS2 8PA

Service: Urquhart-Dykes & Lord LLP

ADP Number
0001644004Address: Tower North Central
Merrion Way
Leeds
West Yorkshire
LS2 8PA

Disclaimer:

Registration of this mark shall give no right to the exclusive use of a letter
"S".

Special Circumstances:

Advertised before acceptance by reason of special circumstances. Section 18(1)
(proviso).

AMEND

OPTICS - TRADE MARKS - USER: APOV 07.12.2005 08.28.06

The Patent Office logo, featuring the text 'The Patent Office' in a stylized font, with 'TRADE MARKS' and 'PATENTS DESIGNS COPYRIGHT' around it.

CASE DETAILS FOR TRADE MARK No. 1148367

Page 1

Customer Ref:

----- CURRENT DETAILS HELD FOR THIS TRADE MARK -----

Status: RGSTRD

Mark Type: Word Only
Class : 33Mark Text:
SHAKER'S

Date Filed:	09.02.1981	Next Renewal Date:	09.02.2012
Date Progress Stopped:		Registration Date:	
(Earliest) Priority Date:		Expiry Date:	
Priority Country Code:		Archived Date:	
If Series, No. in Series:	001	Licensee:	No

Journal Section:	Journal No:	Publication Date:
First Advert	5499 page 00233	01.02.1984
Registration		
Renewal	6430	15.05.2002
Expiry	6421	13.03.2002
Assignment	6291	25.08.1999
Division		
Merger		
Removal		
Restoration		

Specification of goods / services:

Class 33
Wines, spirits (beverages), liqueurs and cocktails.

Residence Country Code: GB

Effective Date of Assignment : 15.06.1999

Proprietor: Halewood International Limited

ADP Number
0580327001Address: The Sovereign Distillery
Wilson Road
Huyton Business Park
Liverpool
L36 6AD



OPTICS - TRADE MARKS - USER: APOV 07.12.2005

08.28.06

CASE DETAILS FOR TRADE MARK No. 1148367

Page 2

Agent: Urquhart-Dykes & Lord LLP

ADP Number
0001644004Address: Tower North Central
Merrion Way
Leeds
West Yorkshire
LS2 8PA

Service: Urquhart-Dykes & Lord LLP

ADP Number
0001644004Address: Tower North Central
Merrion Way
Leeds
West Yorkshire
LS2 8PA

Special Circumstances:

Advertised before acceptance by reason of special circumstances. Section 18(1)
(proviso).



OPTICS - TRADE MARKS - USER: APOV 07.12.2005 08.28.15

CASE DETAILS FOR TRADE MARK No. 508437

Page 1

Customer Ref:

----- CURRENT DETAILS HELD FOR THIS TRADE MARK -----

Status: RGSTRD

Mark Type:

Word Only

Class : 33

Mark Text:

SHAKER

Date Filed:

04.12.1929

Date Progress Stopped:

Next Renewal Date:

04.12.2009

(Earliest) Priority Date:

Registration Date:

Priority Country Code:

Expiry Date:

If Series, No. in Series:

001

Archived Date:

Licensee:

No

Journal Section:

Journal No:

Publication Date:

First Advert

2718 page 00698

30.04.1930

Registration

Renewal

6306

08.12.1999

Expiry

Assignment

6291

25.08.1999

Division

Merger

Removal

Restoration

Specification of goods / services:

Class 33

Cocktails.

Residence Country Code: GB

Effective Date of Assignment : 15.06.1999

Proprietor: Halewood International Limited

ADP Number

0580327001

Address: The Sovereign Distillery
Wilson Road
Huyton Business Park
Liverpool
L36 6AD



OFFICE - TRADE MARKS - USER: APOV 07.12.2005 08.28.15

CASE DETAILS FOR TRADE MARK No. 508437

Page 2

Agent: Urquhart-Dykes & Lord LLP

ADP Number
0001644004Address: Tower North Central
Merrion Way
Leeds
West Yorkshire
LS2 8PA

Service: Urquhart-Dykes & Lord LLP

ADP Number
0001644004Address: Tower North Central
Merrion Way
Leeds
West Yorkshire
LS2 8PA

Special Circumstances.

Advertised before acceptance. Section 18(1) (proviso).

14 2005 18 03 FAX 01132430446

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+ UK PATENT OFFICE 004/009

Form TM7

Sheet 3 of 6

Use this sheet if you are basing your opposition on section 5(1) or 5(2) of the Trade Marks Act.
 Tick which section you are relying on and give details of the earlier mark.
 You must use a separate sheet for each earlier mark, so copy this sheet as many times as you need.

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- ☐ 5(1) identical with an earlier mark and for identical goods or services as the earlier mark.
- ☐ 5(2)(a) identical with an earlier mark and for similar goods or services as the earlier mark.
- ☒ 5(2)(b) similar to an earlier mark and for identical or similar goods or services as the earlier mark.

Details of earlier trade mark

Number: 2194851

Is it a UK, Community or International mark? UK

Representation of the mark:

SHAKER
 SHAKERS

What goods or services (including their class) are covered by this mark?

Class 32: Beers

Class 33: Cocktails

State which goods or services in the application you say are identical or similar to those covered by the earlier mark.
 Vodka, blitters, spirits; vodka-based beverages and vodka mixers

Statement of use

If the earlier mark has been registered for five years or more before the publication of the mark you are opposing, state which goods or services the earlier mark has been used on in that time, or state why the mark has not been used in that time;

Form TM7

0171109 02-Dec-05 04:03